

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$17,625.00 for dates of service 05/01/01 through 06/14/01.
- b. The request was received on 02/14/02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60 and Letter Requesting Dispute Resolution dated 04/10/02
  - b. HCFA(s)
  - c. TWCC 62 forms
  - d. Medical Records
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. TWCC 60 and Response to a Request for Dispute Resolution dated 05/03/02
  - b. HCFA(s)
  - c. EOBs
  - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 04/18/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 04/19/02. The response from the insurance carrier was received in the Division on 05/03/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor:
  - a. "Our position is that the fees paid for these services were not 'fair and reasonable.'... Attachment #1 contains some examples of claims paid at our billed

rate by other insurance companies during the same period of time. The claims are credible evidence of our billed rate is ‘fair and reasonable.’”

2. Respondent:

- a. “In dispute is the rate of reimbursement under CPT code 97799. No MAR exists for this code. Accordingly, payment is to be calculated based upon a fair and reasonable rate. Provider has billed it[sic] usually and customary rate at \$175 per hour. This is not a fair and reasonable rate. Carrier has reimbursed the provider based upon a fair and reasonable rate of \$80 and \$100 per hour. No additional reimbursement is owed.”

#### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 05/01/01 extending through 06/14/01.
2. The carrier’s EOB denial submitted is “F-THE PROCEDURE CODE IS REIMBURSED BASED ON THE MEDICAL FEE SCHEDULE, IF ONE IS NOT MANDATED, THE UCR ALLOWANCE IS REIMBURSED FOR THE ZIP CODE AREA.”
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
05/01/01	97799-CP-AP	\$1,400.00 (8.0 units)	\$800.00	F	DOP \$175.00 (per hour)	TWCC Act & Rules Sec. 413.011 (d), Rules 133.304 (i) & 133.305 (i) MFG;MGR (II)(C)(G)	<p>The provider has included in their dispute packet, documentation (EOBs from other carriers) that provides some evidence of “fair and reasonable” reimbursement per Sec. 413.011 (d). The provider is a CARF accredited facility, therefore the \$175.00 per/hr billed will not reduced according to the Fee Guidelines.</p> <p>The provider billed in accordance with the referenced Rule and medical documentation indicates that the services were rendered.</p> <p>Regardless of the carrier’s lack of methodology and response, the burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. The willingness of some carriers to reimburse at or near the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011 (d) of the Texas Labor Code.</p> <p>Therefore, additional reimbursement is not recommended.</p>
05/02/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/03/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/04/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/07/01		\$1,225.00 (7.0 units)	\$700.00	F			
05/08/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/09/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/10/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/11/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/14/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/15/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/16/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/17/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/18/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/21/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/22/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/23/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/24/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/25/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/29/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/30/01		\$1,400.00 (8.0 units)	\$800.00	F			
05/31/01		\$1,400.00 (8.0 units)	\$800.00	F			
06/01/01		\$875.00 (5.0 units)	\$500.00	F			
06/04/01		\$1,400.00 (8.0 units)	\$800.00	F			
06/05/01		\$1,400.00 (8.0 units)	\$800.00	F			
06/06/01		\$1,225.00 (7.0 units)	\$700.00	F			
06/11/01		\$1,400.00 (8.0 units)	\$800.00	F			
06/12/01		\$1,400.00 (8.0 units)	\$800.00	F			
06/13/01		\$1,400.00 (8.0 units)	\$800.00	F			
06/14/01		\$1,400.00 (8.0 units)	\$800.00	F			
<b>Totals</b>		\$41,125.00	\$23,500.00				The Requestor <b>is not</b> entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 21st day of June 2001.

Michael Bucklin, LVN  
Medical Dispute Resolution Officer  
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.